

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

JAHLIL BROWN, : S24 04 Cr. 801 (PKC)

a/k/a "Jolly," :

a/k/a "Jahlil Bennett," :

Defendant. :

- - - - -x

GOVERNMENT'S PROPOSED  
EXAMINATION OF PROSPECTIVE JURORS

MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York  
Attorney for the United States  
Of America

Steve C. Lee  
Todd W. Blanche  
Assistant United States Attorneys  
- Of Counsel -

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The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The Court is requested to pursue more detailed questioning at the sidebar or in the robing room if a prospective juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the prospective juror in favor of or against either the Government or the defendant.

The Charges

1. This is a criminal case with one defendant. The defendant, JAHLIL BROWN, has been charged in an indictment with violating various federal laws. The indictment was filed by a grand jury sitting in this district.

2. The indictment is not evidence itself. It simply

contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I would like to summarize the charges in this case in order to determine whether there is anything about the nature of this case which may make it difficult or inappropriate for any of you to serve on the jury.

3. The Indictment contains a total of twelve counts, or charges.

Count One charges that from in or about 2000 to in or about April 2003, JAHLIL BROWN, together with others, conducted and participated in the affairs of a racketeering enterprise through a series of specific criminal acts alleged to constitute a pattern of racketeering activity.

The Indictment refers to the racketeering enterprise as the Two Mile Posse. The enterprise is alleged to have been an association of individuals that existed for several purposes, including the following: (a) enriching its members and associates through, among other things, murder and the sale and distribution of marijuana; (b) preserving and protecting the power of the enterprise through murder and other acts of violence; and (c) promoting and enhancing the enterprise and the activities of its members and associates.

The crimes alleged to constitute the pattern of racketeering are the following:

1. a conspiracy to violate the narcotics laws from in or about 2000 to in or about April 2003, and

2. a conspiracy to murder, and the murders of, Rohan Bailey and Camila Simmonds in December 2001.

Count Two charges JAHLIL BROWN with conspiracy to participate in a racketeering enterprise.

Count Three charges JAHLIL BROWN with the assault of Dennis Paulk on June 20, 2002, for the purpose of maintaining and increasing his position in the alleged Two Mile Posse racketeering enterprise.

Counts Four, Five, and Six charge JAHLIL BROWN with conspiracy to murder, and the murders of, Rohan Bailey and Camila Simmonds in December 2001 for the purpose of maintaining and increasing his position in the alleged Two Mile Posse racketeering enterprise.

Counts Seven and Eight charge JAHLIL BROWN with killing Rohan Bailey and Camila Simmonds while engaged in a narcotics conspiracy.

Count Nine alleges that on or about December 19, 2001, during and in relation to the alleged conspiracy to murder and the murder of Rohan Bailey and Camila Simmonds, JAHLIL BROWN, used, carried, possessed, and discharged a firearm.

Count Ten alleges that on or about December 19, 2001, during and in relation to the alleged conspiracy to murder and the

murder of Rohan Bailey and Camila Simonds, JAHILIL BROWN used, carried, and possessed, and aided and abetted the use, carrying, and possession of firearms, and in the course of such crimes, caused the death of persons through the use of firearms.

Count Eleven alleges that from in or about December 2001 through at least in or about April 2003, during and in relation to the charged narcotics conspiracy, JAHILIL BROWN used, carried, and possessed a firearm.

Count Twelve alleges that from in or about 2000 to in or about April 2003, JAHILIL BROWN conspired to violate the narcotics laws by distributing and possessing with intent to distribute at least 1,000 kilograms of marijuana.

Do any of you believe you have personal knowledge of the events charged in the indictment as I have described them?

**Nature of the Charges**

4. As you can tell, you will hear evidence during the trial concerning various acts of narcotics trafficking, including the distribution of marijuana, as charged in Counts One and Twelve. Does the fact that the charges involve narcotics, and specifically marijuana, make it difficult for any of you to render a fair verdict? Do any of you feel that you could not decide fairly and impartially a case involving such charges?

5. Do any of you believe that the laws criminalizing the use, possession and distribution of marijuana are wrong? Do any

of you believe that such laws should not be enforced?

6. More generally, do any of you have any opinion about the enforcement of the narcotics laws that might prevent you from being fair and impartial in this case? Do any of you have an opinion that the actions charged in the indictment, as I have described them to you, should not be crimes?

7. Have any of you been involved in an offense involving narcotics or other controlled substances? Do any of you have a relative, close friend or associate who has been involved in an offense involving narcotics or other controlled substances? Have you, or has any member of your family or any of your close friends, had any experience of any kind, directly or indirectly, with narcotics or other controlled substances?

7a. During the trial, you will also hear evidence concerning a number of murders. This case **does not**, however, involve the death penalty as a possible punishment. Still, does the fact that some of the charges involve murder make it difficult for any of you to render a fair verdict? Do any of you feel that you could not decide fairly and impartially a case involving such charges?

7b. There may be evidence at trial that the persons who were murdered were not themselves wholly innocent of criminal activity. Do any of you feel that such information about the murder victims would affect your ability to render a fair and

impartial verdict in this case in light of the charges as I have described them?

8. During the trial, you will hear evidence concerning the use and possession of firearms. Does the fact that the charges involve firearms make it difficult for any of you to render a fair verdict? Do any of you feel that you could not decide fairly and impartially a case involving such charges?

9. Do any of you believe that the use and possession of firearms in furtherance of narcotics trafficking and crimes of violence should not be illegal, or that the laws governing these crimes should not be enforced? Is there anything about the nature of the charges that would cause you to be unable to render a fair and impartial verdict in this case?

10. Do any of you have any opinion about the enforcement of the federal firearms laws that might prevent you from being fair and impartial in this case?

11. Do any of you believe that the Racketeer Influenced and Corrupt Organizations Act, also known as the RICO statute, should not be used to prosecute violations of the narcotics laws and in particular, the laws prohibiting the possession and distribution of marijuana?

12. Apart from the questions I have just asked, has any juror formed an opinion that the actions charged in the indictment, as I have described them to you, should not be

crimes?

**Knowledge of the Trial Participants**

13. The defendant in this case are is JAHLIL BROWN, a/k/a "Jolly," a/k/a "Jahlil Bennett" [*Please ask to rise*] Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relatives, friends or associates of the defendant?

14. To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

15. JAHLIL BROWN is represented by Kelley Sharkey, Esq. and Bobbi Sternheim, Esq. [*Please ask to rise*] Do any of you know these lawyers? Have any of you had any dealings, either directly or indirectly, with these lawyers or their firms?

16. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is Michael J. Garcia. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Steve Lee and Todd Blanche. Mr. Lee and Mr. Blanche will be assisted during trial by Special Agent Jay Salvatore of the Drug Enforcement Administration, and [X], a paralegal in the U.S. Attorney's Office. Do any of you know Ms. Lemire, Mr. Lee, Special Agent Salvatore, or [X]? [*Please ask to rise*] Have any of you had any dealings, either



directly or indirectly, with any of these individuals?

**Relevant Persons**

17. I will now read a list of names of individuals whose names may be mentioned during the trial, or who may be witnesses in this case. **[Names to be provided.]** Do any of you know any of these people? Have you had any dealings either directly or indirectly with any of these individuals?

**Relevant Locations**

18. Now I will read a list of locations that may be mentioned at trial. Please tell me if any of you are familiar with any of the locations. **[Locations to be provided.]**

**Relationship with Government**

19. Do any of you know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the Southern District of New York, the United States Drug Enforcement Agency, the New York City Police Department, the Police Departments in Tucson and Phoenix, Arizona, the Police Department in Mahwah, New Jersey, or the Ohio State Highway Patrol? Is any member of your family employed by any law enforcement agency, whether federal, state, or local? Has any juror, either through any experience he or she has had or anything he or she has seen or read, developed any bias or prejudice for or against any of these entities?

20. Have you, or has any member of your family, either as an individual or in the course of business, ever been a party to any legal action or dispute with the United States, or with any of the officers, departments, agencies, or employees of the United States, including the Internal Revenue Service? Have any of you had any legal, financial or other interest in any such legal action or dispute, or its outcome? In particular, have you, or has any member of your family, ever had a dispute concerning payment of money owed to you by the Government?

**Ability to Render Fair Verdict**

21. Law Enforcement Personnel. The witnesses in this case will include law enforcement personnel such as detectives or officers of the New York City Police Department. Would any juror be more likely to believe or disbelieve a witness merely because he or she is a law enforcement officer?

22. Cooperating Witnesses. You also will hear testimony from witnesses who will say that they participated in certain of the crimes charged in the Indictment. These witnesses have pleaded guilty to criminal offenses and are cooperating with the Government in the hope of receiving a lower sentence. I advise you that the use of cooperating witnesses is a legal and often necessary law enforcement tool.

(a) Would you be more likely to believe or disbelieve such a witness merely because he has pled guilty and is

testifying as a government witness in the hope of receiving a lesser sentence?

(b) Do you have any general feeling about the Government's use of cooperating witnesses that would make it difficult for you to render a wholly fair and impartial verdict?

(C) Would you have any bias for or against the Government because of evidence obtained in this manner?

23. Expert Witnesses. You also may hear testimony from expert witnesses. Have any of you had any experiences with experts, or do you have any general feelings about the use of experts, that would make it difficult for you to render a wholly fair and impartial verdict?

24. Persons Not on Trial. The defendant is charged with acting with others in committing certain of the alleged crimes. Some of those other individuals are not on trial in this case. You may not draw any inference, favorable or unfavorable, towards the Government or the defendant from that fact. You also may not speculate as to the reason why other persons are not on trial at this time. Is there any juror who cannot follow this instruction or who for this reason would have difficulty rendering a fair and impartial verdict?

25. Searches. Some of the evidence admitted at trial may come from searches performed by law enforcement officers. I instruct you that those searches were legal and that the evidence

obtained from those searches is admissible in this case. Do you have any unfavorable opinion about searches conducted by law enforcement officers or the use of evidence obtained from such searches at trial?

**Prior Jury Service**

27. Have you ever, at any time, served as a member of a grand jury, whether in federal, state, county or city court? If so, when and where did you serve?

28. Have you ever served as a juror in any court? If so, when, and in what court did you serve, and was it a civil or criminal case? What was the nature of the case? Did the jury reach a verdict?

**Experience as a Witness, Defendant, or Crime Victim**

29. Have any of you, or any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency? Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

30. Have you ever been a witness or a complainant in any federal or state prosecution?

31. Are you, or is any member of your family, now under subpoena or, to your knowledge, about to be subpoenaed in any

criminal case?

32. Have you, or has any member of your family, any associate or close friend, ever been charged with a crime?

33. Have you, or have any of your relatives, associates, or close friends ever been the subject of any investigation or accusation by any federal or state grand jury, or by any Congressional committee?

34. Have you, or any of your close friends or relatives, ever been a victim of a crime? *[As to any juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of each crime.]*

**Problems with Perception**

35. Do any of you have problems with your hearing or vision which would prevent you from giving full attention to all of the evidence at this trial?

36. Are any of you taking any medication that would prevent you from giving full attention to all of the evidence at this trial?

37. Do any of you have any difficulty in reading or understanding English in any degree?

**Function of the Court and Jury**

38. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the

Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finder. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not each defendant is guilty as charged in the indictment. Does any juror have any bias or prejudice that might prevent or hinder him or her from accepting the instructions of law that I will give you in this case?

39. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether a particular defendant is guilty or innocent?

40. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to the guilt or innocence of each defendant, and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of each defendant?

41. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the

evidence?

42. Does any juror have any religious, philosophical or other belief which would make him or her unable to render a guilty verdict for reasons unrelated to the law or evidence?

43. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly and impartially in this case, and to render a true and just verdict without fear, favor, sympathy or prejudice, and according to the law as it will be explained to you?

**Juror's Background**

44. The Government respectfully requests that the Court ask each juror to state the following information:

- a. the juror's family status;
- b. the juror's occupation and educational background;
- c. the general location of the juror's employer;
- d. the period of employment with that employer;
- e. the same information concerning other employment within the last five years;
- f. the same information with respect to the juror's spouse and any working children; and
- g. the area in which the juror resides;

- h. what newspapers and magazines or internet news sources the juror reads and how often;
- i. what television programs the juror regularly watches.

**Requested Instruction Following Impanelment**

45. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family, and your friends.

46. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk.

47. In this regard, let me explain to you that the attorneys, the defendant, and the witnesses in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.



DATED: New York, New York  
September 12, 2008

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America

By: /s/ Steve C. Lee /s/  
Steve C. Lee  
Todd Blanche  
Assistant United States Attorneys  
Telephone: (212) 637-2413/2494

CERTIFICATE OF SERVICE

I, Steve C. Lee, certify that on September 12, 2008, a copy of the Government's Proposed Examination of Prospective Jurors was served via ECF on all counsel of record in this case.

/s/ Steve C. Lee /s/  
Steve C. Lee  
Assistant U.S. Attorney